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1 DAVID MEEKER

2 UNITED STATES DISTRICT COURT

3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4  
5 -----  
6 UMB BANK, N.A., as Trustee,

7 Plaintiff

8 vs.

9 SANOFI,

10 Defendant  
11 -----  
12

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14 DEPOSITION OF DAVID MEEKER

15 THURSDAY, JULY 26, 2018

16 WEIL, GOTSHAL & MANGES LLP

17 100 FEDERAL STREET

18 BOSTON, MASSACHUSETTS  
19  
20  
21  
22  
23

24 Reported by: Sandra A. Deschaine, CSR, RPR, CLR, CRA

25 Job No: 145263

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2       litigation to involve?

3           A.     That the CVR holders are  
4       interrogating or questioning the level of  
5       diligence that was applied to executing on  
6       the terms of the CVR.

7           Q.     Thank you.

8                   Do you know what the CVR agreement  
9       is?

10          A.     I understand, I believe, the terms  
11       of the CVR.

12          Q.     Okay. Have you ever seen the CVR  
13       agreement?

14          A.     Yes.

15          Q.     Under what circumstances, other  
16       than as provided to you by counsel?

17          A.     So -- so I will back up and say I  
18       am unsure if I have seen the CVR in its  
19       entirety, as it was presented to me  
20       yesterday. What was summarized for me on  
21       more than one occasion were the milestones  
22       and the terms of the CVR.

23          Q.     To the best of your recollections,  
24       the summarization of milestones and the terms  
25       of the CVR, was that communicated to you

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2       verbally or in writing?

3                   MR. AMSEL:   Separate and apart  
4                   from anything you might have learned  
5                   from discussions with counsel in  
6                   preparation for the deposition.

7                   MR. WEISS:   Withdraw the question.  
8                   I'll rephrase it.

9       BY MR. WEISS:

10           Q.     Other than the presentation of the  
11           full agreement to you by counsel, previously,  
12           as part, presumably, of your deposition prep,  
13           in what form were the terms and  
14           summarizations of the milestones of the CVR  
15           agreement presented to you?

16           A.     So verbally, for sure.   So I do  
17           not have a distinct memory of a presentation  
18           with the terms of the CVR laid out.

19           Q.     And to the best of your  
20           recollection, how many times were you  
21           informed, verbally, of the terms and  
22           milestones set forth in the CVR agreement?

23           A.     So I was -- I was never, to the  
24           best of my recollection, informed, other than  
25           in response to my request to understand or be

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2       reminded of the terms of that CVR.

3           Q.     So, in other words, your testimony  
4       is that no one ever actually actively came  
5       and informed you of the terms of the CVR  
6       agreement?

7           A.     Yes.

8           Q.     And you said that you received  
9       this information in response to a  
10      self-generated request. What were the  
11      circumstances of those requests,  
12      individually, if you don't mind?

13          A.     So there was -- the one specific  
14      occasion that I recall was trying to  
15      understand if our budget was still meeting  
16      the terms of the CVR and wanting to be  
17      reminded as to what those terms and  
18      milestones were.

19          Q.     And to whom did you direct this  
20      inquiry?

21          A.     So that was to the CFO, who was  
22      working -- Marc Esteva, at that time.

23          Q.     And when did this happen?

24          A.     So I don't, to be honest, remember  
25      exactly when this happened. So it would have

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2 Q. And Aubagio, you didn't generate  
3 an Aubagio cash P&L, correct?

4 A. Correct.

5 Q. And part of the Lemtrada cash P&L  
6 specifically called out both the Bayer  
7 royalty and the CVR payments, correct?

8 A. Yes.

9 Q. Why was that created?

10 A. That was created because of the  
11 complexity. So we had an understanding of  
12 the profitability of Aubagio. We had an  
13 understanding of the profitability of  
14 Cerezyme. We had an understanding of  
15 profitability of Fabrazyme, etc. Lemtrada  
16 was the only product that had that level of  
17 complexity around the flow of cash that, in  
18 my opinion, required a separate exercise to  
19 really understand.

20 Q. To understand the profitability of  
21 the product?

22 A. Exactly.

23 Q. And when you said you thought, was  
24 the cash P&L something that was created at  
25 your instruction?

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2       indication, correct?

3                   MR. AMSEL:   Objection to the form.

4                   MR. WEISS:   I'll withdraw the

5       question.   That's fine.

6   BY MR. WEISS:

7       Q.   If you look over, it says "Risks"

8       Phase III data materially unfavorable versus

9       Phase II data; yes?

10      A.   Yes.

11      Q.   And what is being referred to

12     there?

13      A.   Phase III had not read out yet

14     and, clearly, we were basing our optimism on

15     a Phase II smaller trial.

16      Q.   And one of the important data  
17     points that came out of the Phase II trials

18     for Lemtrada, was that Lemtrada, in that

19     cohort of patients, slowed the accumulation

20     of disability in patients, correct?

21      A.   Yes.

22      Q.   And that is referred to sometimes  
23     as an improvement in disability?

24      A.   It can accommodate, in that  
25     definition, an improvement.

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2       to get the outcome they deserve.

3           Q.    Real science for real people to  
4       improve the clinical outcome?

5           A.    Your words. I agree.

6           Q.    But they're correct, right?  
7       That's a good philosophy on how to sell a  
8       drug?

9           A.    That is my philosophy.

10          Q.    Right. And you were the CEO of  
11       Genzyme from 2011 to 2017?

12          A.    Correct.

13          Q.    The last sentence states, "The  
14       last comment relates to Aubagio and the  
15       challenge of insuring we do not limit  
16       potential use in earlier stage patients, as  
17       we try to create room through our messaging  
18       for Aubagio." (as read)

19                What are you being -- what are you  
20       referring to there?

21          A.    I did not want the fact that we  
22       had two products in the marketplace, to say  
23       you use this product for the early stage.  
24       You use Lemtrada for the late stage.

25          Q.    Right. And this refers for very

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